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COMPLAINANT EXCEPTIONS TO PFD

6/2/23

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**DOCKET NO. 51619
SOAH DOCKET NO. 473-22-2652**

COMPLAINT OF JEFF CONNORS	§	PUBLIC UTILITY COMMISSION
AGAINST THE GALLERY	§	
APARTMENTS, ROSCOE PROPERTY	§	OF TEXAS
MANAGEMENT, AND CONSERVICE	§	

COMPLAINANT EXCEPTIONS TO PFD

Background

On May 15, 2023, the SOAH submitted a Proposal for Decision (PFD). On May 19, 2023, the PUC set a deadline of June 2, 2023 for Exceptions to the PFD to be submitted

This is my Exceptions to the PFD.

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To clarify what I mean by “pdf pages”, a term I sometimes use in my footnotes, I am referring to the page number in the upper left-hand corner of the window when you pull up the document from the Docket; not the page numbers that are actually on the bottom of some of the documents.

When I simply refer to “pages”, I will be referring to the page numbers on the bottom of the page of the documents.

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Exceptions to V. ALJ's Discussion of the Preliminary Order Issues and Recommendation

Issue 6 on page 39 of the PFD

The applicable period of the violations is from October 2019 to May 2020. Those were the months in which I was overcharged for water on my monthly rental bills.

Issue 13 on page 44 of the PFD

The total amount, including the amount I was billed in October 2019 when Conservice billed me a second time for the 7/15/19 to 8/14/19 City of Austin (CofA) bill to the complex, is approximately \$30, not the \$49.86 that is cited in the PFD.

The \$30 is an estimation because it is impossible to know the exact amount. When I was credited money on my bills back in the summer of 2021 it offset unknown amounts that I owed for water for those months since all I was provided was a credit and not also the amount I owed that month¹. I estimate that the credits were around \$120 in total.

In essence, what they owe me is about \$8 (\$128.64 - \$120) from underpaying me for the water and wastewater charges on my November 2019 to May 2020 rental bills² that Conservice sent me, on behalf of Roscoe, and then the entire amount I paid for water and wastewater, including the fixed charges, on my October 2019 bill which was \$23.52³. In their calculations of what I am owed⁴, Conservice did not credit me for the full amount on my October 2019 bill because they did not acknowledge that they charged me a second time for the 7/15/19-8/14/19 CofA bill.

As far as owing me for the extra bill that I'll have to pay once I end my lease, that is covered by paying me back for the full amount I paid in my October 2019 bill. The bill that I'll have left to pay after I leave, due to being double-billed and having my water bills pushed out a month so that I am now a month and a half behind the CofA's, will still be for a water service period that I lived at the complex. For instance, if I move out on April 1, 2024, the latest water bill rendered to me by that time will be for CofA water charges for the Service Period of mid-January to mid-February and I will still owe the mid-February to mid-March bill which wouldn't have been issued to tenants yet.

¹ Example of credit shown on my bill is found for *Water* on my August 2021 bill from Conservice found in Item 108 in *51619_108_1270452* on pdf page 85

² Item 102 in the Docket on pages 1 through 2

³ Found in Appendix A of this document on page A1

⁴ Item 102 in the Docket on page 1

Issue 14 on page 47 of the PFD

The PFD asserted that it can't determine if an adjustment is warranted on all of The Gallery's tenants for being billed a second time for the CofA 7/15/19-8/14/19 water bill to the complex because no other bills except mine were provided.

First of all, it's already been found in Issue 13 in the PFD that Conservice billed me a second time for the 7/15/19-8/14/19 CofA bill⁵ and since we are on allocated billing that means they did that to all Gallery II tenants.

You can also see in the tables that Conservice provided for their charges of Gallery II tenants⁶ that we were billed for the 7/15/19-8/14/19 CofA water bill in October 2019 from the *Provider Cycle* dates which are 7/15/19-8/14/19 for the *Water 2* and *Water 4* charges. You can verify that we were billed for that bill by looking at the *Total Expense* for both *Water 2* and *Water 4* and *Sewer 2* and *Sewer 4* which match the ones mentioned in the PFD of \$828.37 and \$987⁷. It's also established in the table that tenants were billed for it in the *Billed* column for *Water 2* (\$123.45), *Water 4* (\$621.24), *Sewer 2* (\$147.04), and *Sewer 4* (\$740.53)⁸. So, Conservice's own records are proof that they did indeed charge Gallery II tenants for it. I obviously didn't pay those *Billed* totals myself.

If there's any further doubt that Gallery II tenants were billed a second time for a water bill that they had already paid, you can verify we were by looking at the *Conservice Cycle* column in the table for the October 2019 to March 2020 months⁹ for *Water 2*, *Water 4*, *Sewer 2*, and *Sewer 4*. We paid for water for six months during that period, but the *Conservice Cycle* spans from 8/14/19 to 1/14/20, a period of five months. The CofA bills are monthly so that shows that Conservice clearly billed us a second time for a CofA bill somewhere along the line and it's obvious, again from Conservice's own records, that they billed us for the 7/15/19-8/14/19 CofA in October and then changed the water billing dates on our charges to 8/14/19 to 9/8/19 to conceal it.

⁵ Item 125 on page 46

⁶ Item 109 on page A4

⁷ Item 125 on page 22

⁸ *Water 2* and *Sewer 2* were the water and sewer usage charges for Gallery II tenants being billed for water using the *CustMulti* method and *Water 4* and *Sewer 4* the charges for those being charged using the *Oc50/Sq50* method.

⁹ Item 109 on pages A2 to A4 (they run backwards chronologically such that March 2020 is on page A2 and October 2019 on page A4)

Conservice also has continually denied that they billed us a second time for the bill¹⁰ so I think it's fair to conclude from that that they haven't paid any tenants back for the double-billing. Plus, in their calculations of the money they overcharged me they didn't factor in that they owed me the entirety of the water and sewer charges in my October 2019 rental bill¹¹ so there is no reason to believe that they paid back the full amount to any other tenants.

Furthermore, the document that they produced this past January that they claim they sent Gallery II tenants back in the summer of 2021 only states that they overbilled tenants due to an occupancy calculations error and doesn't mention that they were also refunding us back for billing us a second time for a water bill¹².

So overall, I don't believe that there is any logical doubt that they billed all Gallery II tenants a second time for the 7/15/19-8/14/19 CofA water bill and that they didn't pay us back for it. So, therefore they owe me and every other Gallery II resident who was a tenant back then a refund for that month.

As I mentioned earlier, my refund for October 2019 is fully covered in the \$30 I am owed.

Issue 15 on page 47 of the PFD

§24.283(b) reads that:

Allocated bills shall be rendered as promptly as possible after the owner receives the retail public utility bill.

Both Conservice and Roscoe have encouraged a fixation on the term “promptly” in this PUC Rule in their arguments summarized in the PFD¹³. Conservice also has invented a standard of issuing the bills within 60 days of receiving them from the CofA even though there is no such standard in PUC Rules. Roscoe, on their part, has constructed a standard of “timeliness” and pointed towards the PUC's lack of a definition for the term though in fact the term “timely” or “timeliness” is not found anywhere in the rule itself.

The PFD also appears to end its analysis of the rule at the term “promptly” and points towards the lack of that standard as a reason to not find a violation of §24.283(b). The standard for

¹⁰ Item 124 on page 2

¹¹ Item 102 in the Docket on page 1

¹² Item 95 on pdf page 8

¹³ Item 125 on pages 28 to 31

whether or not the bill was rendered promptly though is defined by the two words in the rule that follow it: as promptly *as possible*. The fact that Performance was able to render the water bills for the CofA time period they ended by the next monthly rental bill¹⁴, as shown in Item 105 on pdf pages 64 and 65, and did it for over three years is proof that it is clearly possible to do that.

Conservice's argument that is cited to shed doubt that Performance actually rendered the bills that quickly is that "Performance would have had only three business days from the date the bill was printed by the City of Austin to receive the bill in the mail, calculate tenant charges, and issue tenants their billing statements" and that that is an "impressive timeline".

First of all, I think it's fair to say that any company involved in the billing business is not going to receive these bills in the mail. That would be taking the risk that the bills might be lost and also that the data from the bills, such as the charges, might be manually input into their billing software incorrectly. They have these bills electronically delivered to them. In fact, on the 7/15/19-8/14/19 CofA bill that Performance billed us for in September 2019, you can see where the mailing address would be on the bottom left-hand corner of the bill it simply states the LLC that owned the property at the time: VM Manchaca 3506 LLC¹⁵. You can see the same in the 8/14/19-9/13/19 CofA bill¹⁶, which was after Roscoe and Conservice arrived at The Gallery and should have been the first one that Conservice charged us for in October 2019.

In regards to how long it takes to "calculate tenant charges", there aren't abacus beads rattling around in the basement of these billing businesses figuring out how much each tenant ought to be charged. The charges from the provider are simply input into the billing software and, if everything is set up right and the correct occupancy figures are input into it, then the proper charges for each apartment are calculated and the bills created for them within a short period. Conservice stated that they typically waited for 48 hours for the property manager to review the charges and that the "occupancy data that [Conservice had] listed [was] correct" and that if Conservice didn't hear back from them by the end of the 48 hours they proceeded with the billing¹⁷.

Performance actually mailed us our charges, they came on a postcard, and our water charges arrived in time for us to pay the water charges for the CofA water billing period that had ended a few weeks before. The charges on their bills were also very stable.

¹⁴ Item 119 on pages 33 and 34

¹⁵ Item 105 on page 112

¹⁶ Item 108 in *51619_108_1270455* on pdf page 60

¹⁷ Starting at 00:50 mark at *473-22-2652 HOM 2* which is the second tape of the hearing

Conservice emailed them to us and they were a month and a half behind the CofA billing period because they kicked off their billing debut at The Gallery by charging us a second time for the CofA bill that Performance had already charged us for the previous month, which slid us back a month. Conservice's bills arrived with inaccurate water billing dates on them and overcharges that they claim made it through their "quality process" which included a manual check by one of their employees that apparently didn't even include the most basic of checks to see if they might be overcharging: simply adding up all the water usage charges for the tenants and comparing them to the tenants' collective financial responsibility for the bill, which was the water usage charges on the bill minus the 25% common area deduction (CAD). So, all in all, it's unclear as to why this extra month was needed to render the water bills and what productive purpose, from the tenants' point of view, that it was used for.

Furthermore, going back to the 60 day standard that Conservice constructed and used to support its cause, if they believed that the standard of "promptly as possible" was one as expansive as within 60 days of issuing the bill of receiving it from the CofA, then they shouldn't have misled tenants on the bills they sent them like they did on every one of the bills they rendered to me, as shown in the evidence that they submitted for the hearing (CON-2 Conservice Billing Statements to Jeff Connors)¹⁸ in which they flatly stated on the second page of the bill:¹⁹

"Your charges are calculated using the service provider bill issued most recently prior to the first of the month of this statement."

Conservice made that written promise on every bill they rendered to me, but never once met that standard.

Issue 17 on page 52 of the PFD

As I mentioned in my arguments for Exceptions for Issue 14 on page 3 of this document that concerned Rule 24.283(k): all Gallery II tenants should all be paid back the money they paid for the water and sewer charges on their October 2019 rental bill.

Exceptions to VI. Findings of Fact

Fact 23 on page 56 of the PFD

In the PDF it's stated in Fact 23:

¹⁸ These statements were submitted for the hearing but weren't submitted to the PUC Interchange

¹⁹ Found in Appendix A of this document on page A2 in the dashed rectangle

An error occurred in Conservice's system that resulted in incorrect occupancy and square footage figures being used in the calculations for the Gallery II tenants billed under the *Oc50/Sq50* method, including Mr. Connors, from October 2019 to May 2020, which led to those tenants being overbilled for those months.

The definition of the term “error” is commonly thought of as a *mistake* and it is far from a proven fact that Conservice’s overbilling was a mistake. It’s reasonable to believe, as I do, that Roscoe purposely provided those understated occupancy figures and profited from it²⁰.

The only basis that I can imagine that was used to come to that determination is the words of two Conservice’s employees, Ms. Kat and Mr. Mathews, and possibly the inference that since Conservice apparently didn’t overbill tenants on the *CustMult* method that they thereby didn’t intend to overbill tenants using the *Oc50/Sq50* billing method either.

Ms. Kat and Mr. Mathews are Conservice employees who were not directly involved in The Gallery billing. Ms. Kat is a lawyer who works for Conservice and Mr. Mathews is a billing manager for Conservice. Neither have provided any tangible proof that the overbilling was due to some error in their system.

Ms. Kat first made these claims in January of this year²¹ and pointed towards a document she claimed was sent to tenants at the complex back in late spring of 2021 admitting to overbilling some tenants due to an occupancy calculations error and she asserted this as proof that Conservice took responsibility for their “mistake” once they discovered it. I never received that document that Ms. Kat claims they sent us and had never heard of it until this past January²². But even if they did actually send it, I had already proven to them in the docket back in February of 2021, in my reply to Roscoe’s submissions, that Conservice had overbilled us by using understated occupancy info. So, Conservice “discovering” the overbilling at that point and claiming it was all a mistake doesn’t mean that they willingly took responsibility for the overbilling. In fact, their client Roscoe had claimed just the month prior to me proving this that they and Conservice had done a thorough investigation and found that they had billed the property appropriately and their billing was compliant with PUC Rules²³.

²⁰ Item 119 on pages 2 to 5

²¹ Item 95 on pdf pages 5 and 8

²² Item 119 on pages 9 to 11

²³ Item 112 on pdf page 6

In regards to Mr. Mathews, he is referred to as *the* Billing Manager in the PFD²⁴ which implies that he was the billing manager for the Gallery but he, in fact, never billed The Gallery. He stated at the hearing that his testimony was based upon his “review” of the bills and distinctly stated that he had not billed the property²⁵. It’s also stated in the PFD that “Conservice witness Dylan Matthews *confirmed* that the data error occurred solely within Conservice's billing software and that the tenant data Conservice pulled from The Gallery was accurate” (emphasis mine)²⁶. The term “confirmed” is commonly understood to mean substantiating the proof of something, in this case a claim by Ms. Kat. Mr. Mathews didn’t confirm anything though. All Mr. Mathews did was reiterate Ms. Kat’s claim that the overcharges were due to an occupancy calculations error and then made a claim that the tenant data that Conservice pulled from The Gallery was accurate.

So, all they’ve produced in total are claims from two Conservice employees who weren’t involved in the billing who said the overbilling was unintentional and a document they claimed they sent us that they never mentioned until this past January. I even asked Conservice in a Request for Information in August of 2022 for copies of the “tenant data” that Conservice used to calculate our bills and they said that they didn’t even have that²⁷.

I think it’s also worth thinking about what exactly Conservice is saying led to these overcharges on our bills. What they’re claiming is not just one “mistake”, but two, and they’re both software issues.

On one hand, they’re claiming their quality control process didn’t catch the overbilling because their billing system was incapable of catching it²⁸. As I showed in my Written Brief, the reason for that is because it was programmed not to²⁹. No matter what crazily inaccurate occupancy figures were used to calculate Gallery II tenants’ bills who were being billed using the *Oc50/Sq50* method, the *% of Expected Recov’d* output from their billing program always essentially came out to be 100% for *Water 4* and *Sewer 4* which indicated that the amount that tenants were being billed by that method was exactly what Conservice’s billing system expected³⁰. For instance, even when 44 total occupants were used in May 2020 to calculate the

²⁴ Item 125 on page 12

²⁵ Starting at 5:00 mark at 473-22-2652 *HOM 2* which is the second tape of the hearing

²⁶ Item 125 on page 11

²⁷ Item 67 on page 12 in D7: and RESPONSE TO D7:

²⁸ Starting at 12:35 mark at 473-22-2652 *HOM 2* which is the second tape of the hearing

²⁹ Item 119 from pages 37 to 60

³⁰ The *% of Expected Recov’d*, which was the total amount billed (*Billed* in the table) to tenants using the *Oc50/Sq50* billing method divided by what was *Expected Based on Pen*, are so close for *Water 4* and *Sewer 4* that the slight differences in them (for *Water 4* the *% of Expected Recov’d* for those eight billing months, for example, ranged from 99.98% to 100.01%) can be attributed to round-off differences in that each tenants’ bill was rounded to the nearest penny and then added together to get the *Billed* monthly amounts while the *Expected Based on Pen* was reflective of the total of all those bills summed together and rounded off to nearest cent.

water and sewer usage charges (*Water 4* and *Sewer 4*) for the *Oc50/Sq50* billing method, when in fact there were 114 tenants at The Gallery II, which resulted in me being charged over 2 ½ times what I legally owed, nothing in their billing software called attention to it and it skated through their quality control process and rang up as 100.00% on their *% of Expected Recov'd*.

Additionally, Conservice is also claiming that they “pulled”³¹ or “saved”³² incorrect and understated occupancy totals into their system, which produced the overcharges, which is also due to the way their billing program was coded because data doesn’t “pull” or “save” itself, software programs do.

So, in sum, Conservice is claiming both that the quality process in their billing software had a vulnerability in it such that it wouldn’t catch overcharges if understated total occupancy figures were input into it for their calculations using the *Oc50/Sq50* billing method and that the billing software also happened to “pull” or “save” understated total occupancy figures used for the billing. What that means is that they’re saying their billing software was literally *programmed* to overcharge tenants who were unfortunate enough, like myself, to be billed using the *Oc50/Sq50* billing method. Which it did, without err, all eight months I was overbilled.

Conservice is contending that despite the software being coded to overcharge tenants and the fact their client (Roscoe) that hired them collected the money for those charges³³, which included overcharges, that this was all just an innocent, honest “mistake” and that it wasn’t what the software *intended* to do. Presumably, neither Ms. Kat or Mr. Mathews wrote the software though, so what qualifies them to discern its supposed intentions to bill us correctly?

A much sounder way to judge the intent of the software than to base it on the opinions of two people who didn’t even write it is to look at what it produced.

For instance, my first bill from Conservice for October 2019 that’s found in Appendix A of this document is a fine example. As I’ve mentioned before, I was billed a second time for the 7/15/19 to 8/14/19 City of Austin (CofA) water bill on that bill that I’d already paid the previous month.

³¹ Item 102 on page 3

³² Starting at 33:00 mark at 473-22-2652 *HOM 2* which is the second tape of the hearing

³³ Item 119 on page 2 to 5

A second “problem”, and this occurred on all of my water bills during the period in question while the double-billing only occurred once, is the calculations of my water and sewer usage charges (*Water 4* and *Sewer 4*) were incorrect and I was being charged more than I what I legally owed because understated occupancy figures were being used to calculate my bills. Mind you that Conservice had all the information they needed to detect this because every month there were more Gallery II apartments being billed for water than what were used for the total amount of occupants used to calculate my bills. So, they were sending out more bills to Gallery II tenants than the total number of occupants number that they used to calculate my bills.

Next, there were invented Service Periods on my October 2019 water bill and instead of using the 7/15/19-8/14/19 Service Period dates of the bill that Conservice used calculate these charges someone made-up a Service Period of 8/14/19-9/8/19 in a blatant attempt to conceal the fact that they were charging me a second time for the 7/15/19-8/14/19 CofA water bill. They shaved 5 days off this Service Period and would go on to do this for five more monthly bills until the Service Dates realigned with the CofA’s though now tenants were a month and half behind the CofA’s instead of the half a month they were previously.

Finally, on the second page of the bill³⁴ you’ll see that Conservice misled tenants by claiming that their “charges are calculated using the service provider bills issued most recently prior to the first of the month of this statement” when that was also untrue because they used the 7/15/19-8/14/19 CofA bill to calculate it instead of the most recent bill they had received which was the 8/14/19-9/13/19 CofA bill that had been sent to them in mid-to-late September³⁵.

So, to sum this bill up, this product of Conservice’s billing system that Roscoe approved of and Conservice sent to me on behalf of Roscoe with Conservice’s name and logo on it, this is what it did:

1. Charged me a second time for a water bill I already paid (which was unique to this particular bill). They billed all Gallery II tenants, both those who were billed using the *Oc50/Sq50* method and also the *CustMult* method, a second time for the CofA 7/15/19-8/14/19 water bill.
2. Calculated my water and sewer usage charges using understated occupancy figures which led to overcharges. This was true on every bill I received from Conservice during the period of my complaint. They had enough info on hand to detect this because the total number of occupants used to calculate my bills was less than the total number of apartments that Conservice was billing at The Gallery II.

³⁴ Found in Appendix A of this document on page A2 in the dashed rectangle

³⁵ Item 108 in *51619_108_1270455* on pdf page 60 up near the top right-hand corner of the page the *Bill Print Date* is Sept. 17, 2019.

3. Used fictitious Service Periods. The Service Periods used on this monthly bill, and the five that followed, were incorrect and didn't match any of the CofA's Service Periods. Conservice received the CofA bills which had the Service Period dates on them so they also had that info on hand to ensure this information was correct.
4. Assured tenants that "charges are calculated using the service provider bills issued most recently prior to the first of the month of this statement" and that was also untrue. This disinformation was on every one of the bills that I received from Conservice and was never once true³⁶.

My water bills during the period I was overcharged were riddled with inaccuracies, overcharges, misrepresentations, and misinformation. And I might also add misdirection because as you can see in the last sentence of the bill on the second page, as well as on the top of page 1, tenants are told to contact Conservice if they have any questions about their utility charges³⁷ which directs tenants away from following the proper PUC protocols of making a written request to either the on-site property manager or landlord to obtain billing information. Conservice, a third-party billing provider, doesn't have to provide any of that to tenants.

These bills carry considerable authority with tenants because if they don't pay the amounts charged on them then the property manager and/or owners can use that to assess late charges on them, damage their credit, and even evict them, but there doesn't seem to be much effort or intent by Conservice to ensure that tenants are not overcharged in them, in fact they even intentionally misled tenants with invented Service Provider dates to conceal that tenants were being charged a second time for a bill.

So, I believe that it is inappropriate for the PFD to declare it as a fact that "an error occurred in Conservice's system resulted in incorrect occupancy and square footage figures being used in the calculations for the Gallery II tenants billed under the *Oc50/Sq50* method". Their billing program did exactly what it was coded to do, they've provided nothing to prove that that was an accident, and it's well within their character to purposely overcharge tenants.

The accurate way to term it in the PFD is:

"Conservice claims an error occurred in their system that resulted in incorrect occupancy and square footage figures being used in the calculations for the Gallery

³⁶ On some of the bills this is worded differently (*Four charges are calculated using the service provider bills issued most recently*), but has the same meaning.

³⁷ Found in Appendix A of this document on page A2 in the dashed oval

II tenants billed under the *Oc50/Sq50* method, including Mr. Connors, from October 2019 to May 2020, which led to those tenants being overbilled for those months.”

Fact 24 on page 56 of the PFD

As I mentioned in my Exceptions on Issue 6 on page 2 of this document, I was overbilled for water on my October 2019 to May 2020 rental bills.

Fact 33 on page 57 of the PFD

As mentioned in my Exceptions to Issue 13 on page 2 of this document, all that I’m owed in total is around \$30. I’m not owed the \$30 *and* \$19.86.

Fact 35 on page 57 of the PFD

As argued in my Exceptions to Issue 15 on page 4 of this document, I believe that the fact should be changed to The Gallery was found in violation of 24.283(b) for not rendering the bills “as promptly as possible”.

Exceptions to VII. Conclusions of Law

Conclusions of Law 18 on page 60 of the PFD

I believe that the determination should be changed to The Gallery being found in violation of 24.283(b) for not rendering the bills “as promptly as possible” for the reasons covered in my Exceptions to Issue 15 on page 4 of this document.

Conclusions of Law 21 on page 60 of the PFD

I was billed according to Rule 24.281(e)(2)(A)(iv) from October 2019 to May 2020.

Conclusions of Law 22 on page 60 of the PFD

As explained in my Exceptions to Issue 13 on page 2 of this document, I’m owed \$30 in total.

Exceptions to VIII. Proposed Ordering Paragraphs

Proposed Ordering Paragraph 2 on page 61 of the PFD

I am not owed \$49.86, but \$30 as explained in my Exceptions to Issue 13 on page 2.

The Gallery should be ordered to refund all Gallery II tenants what they charged them for water and sewer on their October 2109 rental bill for the reasons I mentioned in my Exceptions concerning Issue 14 found on page 3.

Additional Inaccuracies in the PFD and Comments

In the PFD, on page 22 under the headline *Mr. Connors's October 2019 Bill*, it's stated that "Conservice first billed Mr. Connors, and other The Gallery tenants, in October 2019 (the October 2019 bill), and Conservice provided a guidance document to him explaining the specific charges and calculations for that bill."³⁸

What the PFD is referring to as a "guidance document" is Conservice's calculations of my water charges. This document though was not provided to me with my bill and Conservice never provided it to me. Roscoe gave it to me when they finally responded to my requests for water billing information after I filed my Formal Complaint³⁹. This information is what tenants are entitled to according to §24.277(e)(6), which is the formula, occupancy information, and common area deductions that were used to calculate their bill.

Second of all, the PFD inaccurately states that:

Conservice's guidance further indicated that Mr. Connors' s allocated portions of those charges were \$9.06 and \$10.80, respectively. Unlike the corroborating ledger entries for September 2019, RPM's Resident Ledger does not corroborate the allocated charges indicated in Conservice's October 2019 bill guidance. Instead, the ledger shows an October 1, 2019 "ubwater" charge of \$12.62 with the description "Water Allocation 08/14/19-09/08/19" and a "ubsewer" charge of \$10.90 with the description "Sewer Allocation 08/14/19-09/08/19."⁴⁰

As I pointed out [here](#)⁴¹, and pointed out prominently in the evidence⁴², but was apparently overlooked, the charges of \$12.62 for water in Roscoe's ledger of my account with them included both the fixed charge (*Water Base Charge 2* for \$3.56) and the water usage charge (*Water 4* for \$9.06) and for sewer both the fixed charge (*Sewer Base Charge 2* for \$0.10) and the sewer usage charge (*Sewer 4* for \$10.80). In the ledger for September 2019, you can see that

³⁸ Item 125 on page 22

³⁹ Item 112 on pdf page 6

⁴⁰ Item 125 on pages 22 and 23

⁴¹ Item 70 on page 40

⁴² Item 105 on pages 12 and 13 as well as 21 and 22

there were two “ubwater” and two “ubsewer” charges⁴³ while in October there were just one for each because they were combined into a single water and a single sewer charge.

It can also be verified in the October 2019 bill I received from Conservice⁴⁴ that my charges for *Water 4* was \$9.06 and for *Sewer 4* was \$10.80.

I’ll note that every water and sewer usage charge in their monthly calculations of my charges ended up being precisely the amount I was charged, including for the months that I was overcharged.

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In regards to that October 2019 rental bill⁴⁵, which is the first bill Conservice did for The Gallery, there is \$61 subtracted from the *Grand Total Due* at the end of the itemized charges from a -\$61 credit above it. This was due to me paying \$1,111 on October 1st, as you can see in the aforementioned Roscoe ledger⁴⁶. We hadn’t gotten our bills by the 1st of the month so I paid \$1,111 thinking that would cover it. So, the \$61 is actually the amount I paid above my rent that month (\$1,050). It’s the money I estimated I owed for utilities for October. For some reason the \$61 was credited, but not the rent money. Nothing nefarious about that, but I wanted to point it out in case Conservice says it was money applied from the utility bill the previous month. It wasn’t. It was what I had estimated I owed for utilities in October and had paid on October 1st.

-

Finally, I want to mention that both LLCs which were listed as owners of the property in the *Registration of Submetered or Allocated Utility Service Forms* in Project No. 47191.111 and Project No. 51613.112 were dissolved in late-February of this year.

The owner listed on the earlier form, which was done in late-2018, was VM 3506 Manchaca LLC.

⁴³ Item 105 on pages 21 and 22

⁴⁴ Found in Appendix A of this document on page A1

⁴⁵ Found in Appendix A of this document on page A1

⁴⁶ Item 105 on page 22

The one listed on the latter form, which was filed on 4/23/21, a few months after Roscoe left The Gallery and the place was renamed to Motif South Lamar, was VM 3622 Manchaca, LLC. On that form, in addition to the allocation method change, the irrigation water deduction was changed from the 25% CAD to being submetered.

*

I will email stephanie.laird@rpmliving.com, jaime.hearn@rpmliving.com, jkat@conservice.com, edmunds@hooverslovacek.com, liu@hooverslovacek.com, and phillip.lehmann@puc.texas.gov to inform them of this submission to the docket.

Respectfully submitted,

Jeff Connors

3506 Manchaca Road

Apt. 239

Austin, TX 78704

(509)990-2154

jeffc_419@hotmail.com

-

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on June 2, 2023 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Jeff Connors

Jeff Connors

Complainant

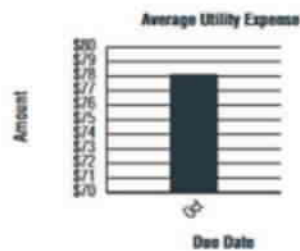
APPENDIX A

FROM THE CON-2 EXHIBIT CONSERVICE SUBMITTED AT THE HEARING



Balance Inquiries & Payment Options **Customer Service for Utility Inquiries** **Service Problems with Utilities**
 ☎ Leasing Office: 1-512-443-1738 ☎ Toll Free: 1-866-947-7379 ☎ Leasing Office: 1-512-443-1738
 ✉ service@conservice.com ✉ service@conservice.com
 🌐 www.utilitiesinfo.com

Account #: 23332691
Account Name: Jeffrey Connors
Due Date: Due Upon Receipt
Statement Date: 10/03/2019
Total Charges: \$1067.15
Service Address: 3506 Manchaca Rd # 2-239
 Austin, TX 78704
Web Fax: 95747634



Store drinking water in the refrigerator rather than running the tap. This way, every drop goes into you and not the drain.

Utility Statement for The Gallery

CURRENT RENT AND LEASE CHARGES

SERVICE TYPE	SERVICE PERIOD	CHARGES
Rent	10/01/2019 - 10/31/2019	\$1,050.00
Rent and Leasing Charges Due Upon Receipt		\$1,050.00

CURRENT UTILITY CHARGES

SERVICE TYPE	SERVICE PERIOD	CHARGES
Water Base Charge 2	08/14/2019 - 09/08/2019	\$3.56
Drainage 5	08/14/2019 - 09/08/2019	\$12.63
Pest Control	10/01/2019 - 10/31/2019	\$5.00
Sewer Base 2	08/14/2019 - 09/08/2019	\$0.10
Sewer 4	08/14/2019 - 09/08/2019	\$10.80
Trash	10/01/2019 - 10/31/2019	\$9.00
Trash Admin Fee	Conservice is a service provider contracted to prepare monthly statements and provide residents with consumption resources.	
		\$3.00
Vallet Trash	10/01/2019 - 10/31/2019	\$25.00
Water 4	08/14/2019 - 09/08/2019	\$9.06
Current Utility Charges due the later of 15 days after the statement date listed above or Due Upon Receipt		\$78.15
Total Current Charges		\$1,128.15
Prior Balance		-\$61.00
Grand Total Due		\$1,067.15

Please see reverse for charge explanations and messages



PO BOX 4717 LOGAN, UT 84303-4717
 9600



JEFFREY CONNORS
 3506 MANCHACA RD # 2-239
 AUSTIN, TX 78704

Account #: 23332691 **The Gallery**
Amount Due: \$1067.15
Due Date: Due Upon Receipt

*Balances are uploaded from your property management. It is current as of the date of this statement. If you have made payments since this date, please check with the leasing office for your updated balance.

Log in to your resident account via the property website listed on the back of this statement to pay your balance online.

Your payment should be made out to:
The Gallery
 3622 Manchaca Rd
 Austin TX 78704

Service Type	Description
Rent	Your rent charges have been included with your utility bill as a courtesy. Your lease with the management will still serve as the control document for all applicable rent charges.
Water Base Charge 2	Water service is provided by City of Austin TX. You are charged based on a flat rate per unit for water availability.
Drainage 5	Drainage service is provided by City of Austin TX. Service provider issues bill, property management pays a portion to cover common area usage. Remaining amount is paid by residents using a formula based on the number of occupants and the unit's square footage.
Pest Control	Your charges are based on a flat rate per unit for your pest control service.
Sewer Base 2	Sewer service is provided by City of Austin TX. You are charged based on a flat rate per unit for sewer availability.
Sewer 4	Sewer service is provided by City of Austin TX. Service provider issues bill, property management pays a portion to cover common area usage. Remaining amount is paid by residents using a formula based on the number of occupants and the unit's square footage.
Trash	Trash service is provided by Waste Connections Lone Star Inc 17608. Your charges are based on a flat rate per unit for your trash service.
Trash Admin Fee	This fee is for trash billing. Please note that this service fee does not include any amount for water or sewer billing.
Valet Trash	Valet trash service is provided by Local Utility Provider. Your charges are based on a flat rate per unit for your valet trash service.
Water 4	Water service is provided by City of Austin TX. Service provider issues bill, property management pays a portion to cover common area usage. Remaining amount is paid by residents using a formula based on the number of occupants and the unit's square footage.

This bill is not from your local utility provider or from any other provider. Your charges are calculated using the service provider bills issued most recently prior to the first of the month of this statement. Vacant charges are prorated from your move-in date.

Message Center

Welcome to Conserveit!

We have recently started billing utilities for your apartment community. We encourage you to take a minute and review your bill and notice the exciting features we have included. You will notice a different Conservation Message in this section each month. Please feel free to contact our customer service department if you have any questions.

Pay your balance online at www.thegalleryaustin.com. You may use your Resident ID listed on top of your statement to create an online account where you can view and pay your monthly charges. For questions about your utility charges, please reach out to Conserveit Customer Service at 1-866-947-7379.